REMARKS/ARGUMENTS

Claims 1-7 and 12-30 remain in the application. Claims 8-11 were previously cancelled and claim 31 is cancelled by this response.

A. Rejections under 35 U.S.C. 103.

Claims 1-7 and 13-30 were rejected under 35 U.S.C. 103 based upon Carter. This rejection is respectfully traversed.

Independent claim 1 calls for, among other things, storage nodes having associated contexts including a political context, an economic context, a geographic context or a network topological context. Further, the data storage management processes serve a data storage request based at least in part upon the particular contexts associated with each of the storage nodes. These features of claim 1 are not shown or suggested in Carter, nor does the Office action even allege that these features are shown in Carter.

The Office action maintains that in "the teachings of Carter, the data storage processes associate the particular contexts with a globally unique identifier." However, what Carter actually states is "the data control program can access a desired portion of the structured store using a globally unique identifier." Hence, Carter associates the globally unique identifier with a part of a data store, not a "context". The Office action rewrites Carter's actual teaching using a word taken from the claims under examination.

Notably, the specific examples of context recited in claim 1 refer to externalities that define context in which the storage nodes exist. These examples of context do not refer to the data itself (e.g., a file name, a file system name, etc.) but instead represent external contextual information. Claim 1 further calls for data storage management processes that serve a data storage request using the contextual information. Hence, while it is acknowledged that all data storage nodes inherently exist in a context (e.g., a storage node might be in California or Antarctica), claim 1 is unique in that the context is used to serve a data storage request (e.g., the storage request is served at least in part based upon knowledge that one storage node is in California and the other in

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Antarctica). The Carter reference does not show or suggest a use of context as that term is used in claim 1.

Further, The Office action continues to characterize the specific context types recited in claim 1 as "field of use limitations" that do not define a patentable distinction. The objection to this rejection is maintained, and it is respectfully requested that the Office supply sum legal precedent for this assertion. The patent laws do not include any provisions that support the position taken in the Office action. Moreover, claim 1 does not attempt to claim the existence of context, but instead is claiming the use of this context information in the service of a data storage request. It is respectfully requested that this argument either be supported by statutory or case law, or be withdrawn.

Claims 2-7 and 12-13 that depend from claim 1 are believed to be allowable for at least the same reasons as claim 1 as well as the specific limitations set out in the dependent claims.

Claim 14 calls for, among other things, a plurality of storage nodes each having one or more associated contexts including a political context, an economic context, a geographic context or a network topological context. The method of claim 14 further calls for selecting one or more of the plurality of storage nodes having an associated context satisfying the desired criteria. At least these features of claim 14 are not shown or suggested in the relied on reference.

As noted above, the recited use of context in the selection of storage nodes in not merely a "field of use limitations." These limitations, by themselves are believed to define patentable subject matter. It is respectfully requested that this argument either be supported by statutory or case law or be withdrawn. These limitations set out a specific manner in which context information is used to select storage nodes. Carter does not show or suggest using context information to select amongst nodes.

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Claims 15-26 that depend from claim 14 are believed to be allowable for at least the same reasons as claim 14 as well as the specific limitations set out in the dependent claims.

Independent claim 27 calls for, among other things, maintaining a state information data structure including state information describing contexts that include a political context, an economic context, a geographic context or a network topological context as well as using the state information to allocate capacity within the network-accessible. As set out in the response filed on January 13, 2005 and above, these features of claim 27 are not shown or fairly suggested by Carter. For at least these reasons claim 27 and claims 28-30 that depend from claim 27 are believed to be allowable over the relied on reference as well as the features presented in the dependent claims.
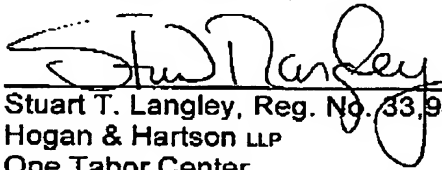
B. Conclusion.

In view of all of the above, claims 1-7 and 13-30 are believed to be allowable and the case in condition for allowance which action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is requested to contact Applicants' attorney at the telephone number listed below.

Any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

Respectfully submitted,

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